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Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No. _____

In The
Supreme Court of the United States

_____ ◆ _____

JAMES CASSIDY,
Petitioner,

versus

WORKERS' COMPENSATION APPEAL BOARD (WYATT INC.)
Respondent.

_____ ◆ _____

On The Petition For Writ Of Certiorari
To The Third Judicial District Court,
Parish Of Allegheny, State Of Pennsylvania

_____ ◆ _____

PETITION FOR WRIT OF CERTIORARI

_____ ◆ _____

James Cassidy
471 Crestview Drive
Pittsburgh, Pennsylvania 15239
Telephone: (412) 795-7579

Pro Se Petitioner

18 pp

QUESTIONS PRESENTED

1. Within the Commonwealth of Pennsylvania and the Judges and Courts jurisdiction were all of the laws that state shall enforced or was I denied and deprived of these laws and the equal protection of these laws?

2. As a natural born citizen why was I denied and deprived of Rights Guaranteed by the Fourteenth Amendment?

3. Did the Stipulation Supplemental Agreement Commutation Petition, Settlement Agreement, comport with the laws within Pennsylvania or did it deprive and deny my Fourteenth Amendment Rights and me of equal protection of the laws within Pennsylvania?

4. Did my employer, their insurer, their attorney and my attorney commit fraud with the presentation of the Stipulation Supplemental Agreement Commutation Petition according to the law of Pennsylvania? Did their action comport with all the laws in Pennsylvania or again was I deprived and denied of my Fourteenth Amendment Rights?

5. Was due process of law and equal protection of all the laws within Pennsylvania by the Courts or was I deprived and denied of the laws within their jurisdiction and deprived of my Fourteenth Amendment Rights?

6. By the laws in Pennsylvania within their jurisdiction did the Courts deprive and deny me of my equal protection of the laws as to the payment of reasonable and necessary medical bills and treatment such as the bills presented to the Judge, Appeal Board and faxed to the insurer?

7. Was all the sufficient competent uncontroverted evidence, all the forms, documents, statements and reports and the ones that were filed as the laws prescribe in Pennsylvania did they comport with the laws or was I deprived and denied of my Fourteenth Amendment Rights?

8. Were all of my weekly wages as set by collective bargaining and as by law in Pennsylvania used in the calculation?

9. In the Stipulation Supplemental Agreement dated July 22, 1997 it states that I am partially disabled and am totally disabled. How can this be? Where is the sufficient, competent, uncontroverted evidence to substantiate this statement? Why in March 27, 1995 did Manny H. Smith, Administrative Law Judge, award disability insurance benefits due to disc and no other health conditions?

10. What does the sufficient competent uncontroverted evidence that was admitted and the sufficient competent, uncontroverted evidence that was not admitted show as the nature of the injury, a bruised coccyx or disc herniation multilevel lumbar disc disease, degenerative spine disease and nerve damage?

11. In a letter, position statement, dated July 24, 2000 from James R. Zeis, Esquire, counsel for the employer and the insurer, to Judge Charles P. Lawton stating "that by describing the injury as a bruised coccyx was just a "harmless mistake". Is this not an admission that the commutation stipulation that was filed and presented to the agency to determine a Workers' Compensation transaction in material respects is incorrect and fraud as prescribed by Pennsylvania law?

LIST OF PARTIES

The following are the parties to this proceeding:

1. James Cassidy
Plaintiff-Petitioner

2. Workers' Compensation Appeal Board (Wyatt Inc.)
Defendant-Respondent

TABLE OF CONTENTS

	Page
QUESTIONS PRESENED	i
LIST OF PARTIES	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	iv
DECISIONS BELOW	1
JURISDICTION	1
STATEMENT OF THE CASE	1
REASONS FOR GRANTING THE PETITION	2
CONCLUSION	6

TABLE OF AUTHORITIES

Page

Cases

Bush v. Gore, No. 00-949, U.S. 531 6

DECISIONS BELOW

The order and reasons of The Supreme Court of Pennsylvania, Western District are not reported and are reproduced in Appendix A (App. pp. 1a).

The order and reasons of The Commonwealth Court of Pennsylvania are not reported and are reproduced in Appendix B (App. pp. 2a).

The order and reasons of The Workers' Compensation Appeal Board are not reported and are reproduced in Appendix C (App. pp. 3a).

The order and reasons of Charles P. Lawton, Workers' Compensation Judge are not reported and are reproduced in Appendix D (App. pp. 4a).

The order and reasons of The Workers' Compensation Appeal Board are not reported and are reproduced in Appendix E (App. pp. 5a).



JURISDICTION

The judgment of the Supreme Court of Pennsylvania was entered on September 30, 2002. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).



STATEMENT OF THE CASE

James Cassidy a union laborer employed by Wyatt Inc. While in the course of employment at a job site on January 4, 1991, sustained a work-related injury to his back. The injuries described in medical terms are disc herniation at L2-3 with a midline herniation at L3-4 and a small disc herniation at L4-5 this also diagnosed as

multilevel lumbar disc disease, degenerative spine disease, also nerve damage to the left side, hip, thigh, knee, ankle and foot.

In January the employer filed and placed James Cassidy on Workers' Compensation. On July 22, 1997 stipulation supplemental agreement was presented to the Commonwealth of Pennsylvania Department of Labor and Industry Workers' Compensation Appeal Board.

On July 23, 1997 an Order with the name James Cassidy social security number 176-36-5446, which is not the Petitioner James Cassidy's social security number (Petitioners correct social security number is 177-40-2164) was rendered.

After petitions were filed to set aside the Stipulation Supplemental Agreement there were several hearings. On November 30, 2000 a decision and Order was rendered by Judge Charles P. Lawton. After a timely appeal was filed there was a hearing held on January 18, 2001 before Commissioner McIntyre. On October 10, 2001 an opinion and Order was rendered by Commissioner McIntyre. An appeal was filed April 5, 2002. On June 3, 2002 there was a memorandum opinion by Judge Robert Simpson but it said Opinion not Reported. On June 3, 2002 an Order was rendered by Judge Robert Simpson.



REASONS FOR GRANTING THE PETITION

The questions presented to this court were raised in the courts below. They have to do with the laws that state *shall* as written and prescribed and the equal protection of these laws, rights guaranteed as a natural born citizen.

In the laws of Act 1996-57 it states forms, documents, statements, reports and sufficient competent uncontroverted evidence *shall* be made part of the record. It also states that an offence is committed if these

documents contain false, incomplete or misleading information concerning any fact or thing material to the agencies determination in approving or disapproving a workers compensation transaction and the department ***shall*** prepare the forms necessary for the enforcement of this section and issue rules and regulations as appropriated. Also it ***shall*** be the duty of the department to enforce the provisions of this section and it ***shall*** investigate all violation that are brought to its notice and ***shall*** institute prosecutions for violations therefore an employers report of occupational injury or disease was filed stating that the nature and location of the injury was a severely bruised tailbone. As the sufficient competent uncontroverted evidence that was admitted shows this is false and misleading incomplete information. The x-rays as well as CT dated 1/18/91 as well as MRIs' dated 3/14/91, 4/14/94 and 7/2/99 shows the true work injury disc.

A report of February 20, 1991 independent medical examination by Robert M. Yanchus, M.D., part of the record, shows that the sacrum/coccyx normal and the true injury is disc. There are also deposition of Eric Minde of Harmarville dated October 8, 1992, Robert M. Yanchus December 3, 1991, Bruce Wilder, M.D. dated December 21, 1995 all their doctors that states the injury was disc all should be on record.

A statement of Wages and Notice of Compensation were also filed. These reports were false, misleading and incomplete. The statement of wage form report does not show or reflect all of my wages as set by the collective bargaining agreement with the Laborers Local 373 which I am a member as well as was my employer Wyatt, Inc., therefore this report, form does not comport with the laws. This also makes the notice of compensation wrong as well. The documented competent uncontroverted evidence that I presented as to the true sum of my average weekly wage was not admitted and was not made part of the record therefore denying me equal protection of the laws within the jurisdiction of the judge and courts also Rights Guaranteed Fourteenth Amendment.

The Stipulation Supplemental Agreement dated July 22, 1997 of record contains false, misleading and incomplete information. The Stipulation Supplemental Agreement of July 22, 1997 states that the nature of the injury was a bruised coccyx. The sufficient competent uncontroverted evidence of record shows that this is false, incomplete and misleading information. The Stipulation Supplemental Agreement of July 22, 1997 also shows an average weekly wage of $540.95 and a compensation rate of $360.63, the sufficient competent evidence that was presented and not admitted and not made part of the record shows these figures are wrong and this denies me equal protection of the laws.

The laws state "nothing *shall* prohibit, restrict or impair the right of the parties to enter into a compromise and release by stipulation in accordance with Section 449". Section 449 of the Act 1996-57 states "every compromise and release by stipulation *shall* be in writing "the document *shall* specify the injury the nature of the injury and the nature of disability whether total or partial", also the average weekly wage also states "no stipulation, no compromise and release *shall* be considered for approval unless a vocational evaluation of the claimant is completed and filed and made part of the record".

The Vocational Evaluation was completed along with a functional capacity evaluation and medical evaluation by Harmarville Rehabiliation Center, one of their independent centers, when I tried to file, present and make it part of the record they were not admitted denying me equal protection of the laws.

The laws also state that a Stipulation Supplemental Agreement can be set aside if it is in any material respect incorrect or if the disability of the employee has increased, also if it was procured by fraud, coercion or other improper conduct. As the x-rays, CT of 1/18/91 the MRIs' of 3/14/91, 4/14/94 and 7/2/99 shows that not only the injury was disc but it has progressed and that it has gotten worse. As stated by an order dated March 27, 1995 by Manny H. Smith, Administrative Law Judge that my disability is due to disc, which was the work related condition. This competent uncontroverted evidence was also not admitted denying me equal protection of the laws.

As admitted by Mr. James R. Zeis who represents the employer, Wyatt Inc., and their carrier Liberty Mutual Insurance Company in a letter dated July 24, 2000 as a position statement stated and I quote "In his letters to you claimant argues that the commutation stipulation should be set aside because it incorrectly described his injury as a "bruised coccyx" claimant argues that this makes the stipulation "materially incorrect" and thus should be set aside. I would submit to you that at best this was a harmless mistake which was not at all material to the commutation in any way", the laws state the document *shall* specify the injury, the nature of the injury. A bruised coccyx heals disc are different and do not heal. The law also states "if such determination results in an impairment rating that meets a threshold impairment rating that is equal to or greater than fifty per centum impairment under the most recent edition of the American Medical Association "Guides to the Evaluation of Permanent Impairment" the employee *shall* be presumed to be totally disabled and *shall* continue to receive total disability compensation benefits, as the competent uncontroverted evidence of record shows I am fifty per centum disabled and therefore by law totally disabled.

As to the medical bills there were bills presented and sent to the judge also presented to the commissioner at a hearing Jan. 18, 2001 before Commissioner McIntyre, also sent to the workers compensation appeal board, the secretary of the workers compensation appeal board, Mr. James R. Zeis and faxed to the insurer, two were paid and the rest were not I have proof of this.

As by admission and the competent uncontroverted evidence that was admitted and made part of the record as well as the competent uncontroverted evidence that was not admitted and not made part of the record that not only is the Stipulation Supplemental Agreement dated July 22, 1997 in material respect incorrect but by granting and affirming the Stipulation Supplemental Agreement dated July 22, 1997 did not comport with the laws of Pennsylvania and did deny and deprived me of equal protection of the laws within the jurisdiction of Pennsylvania and Rights Guaranteed Fourteenth Amendment.

Although this case is not directly related as a Workers' Compensation case. There are many similarities with the history of this case and *Bush v. Gore* No. 00-949, U.S. 531, in which the Florida Supreme court denied rights guaranteed and did not comport with the laws as prescribed within there jurisdiction. This is what this case involves in the court denying and depriving the rights guaranteed, the Fourteenth Amendment of such laws within there jurisdiction and the equal protection of these laws.

CONCLUSION

With the depriving and denying of the laws by the Workers' Compensation Judge, Worker Compensation Appeal Board, the Commonwealth Court of Pennsylvania and the Supreme Court of Pennsylvania, the laws within there jurisdiction and the denial of the equal protection of these laws that states they ***shall*** *apply* to a Workers' Compensation transaction and not be deprived to any person within their jurisdiction. Also, rights guaranteed, Fourteenth Amendment, It is respectfully submitted that the Petition For Writ Of Certiorari be granted.

Respectfully submitted,

James Cassidy
471 Crestview Drive
Pittsburgh, Pennsylvania 15239
Telephone 412-795-7579

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JAMES CASSIDY,
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WORKERS' COMPENSATION APPEAL BOARD (WYATT INC.)
Respondent.

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On The Petition For Writ Of Certiorari
To The Third Judicial District Court,
Parish Of Allegheny, State Of Pennsylvania

_____ ♦ _____

APPENDIX

_____ ♦ _____

APPENDIX A

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

JAMES CASSIDY,	:	No. 324 WAL 2002
	:	
	:	
Petitioner		
	:	
	:	Petition for Allowance of
	:	Appeal from the Order of
v	:	Commonwealth Court
	:	
	:	
WORKERS' COMPENSATION APPEAL BOARD (WYATT, INC.)	:	
Respondent		

ORDER

PER CURIAM

AND NOW, this 30th day of September 2002, the Petition for Allowance of Appeal is denied.

A True Copy Patricia Honard
As of: September 30, 2002
Attest:
Chief Clerk
Supreme Court of Pennsylvania

APPENDIX B

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

James Cassidy,	:	
	:	
Petitioner	:	No. 2655 C.D. 2001
	:	
V	:	
	:	
Workers' Compensation	:	
Appeal Board (Wyatt, Inc.)	:	
	:	
Respondent	:	

ORDER

AND NOW, this 3rd day of June, 2002, the order of the Workers' Compensation Appeal Board is affirmed.

ROBERT SIMPSON, Judge Certified from the Record

JUN 3 2002
and Order Exit

APPENDIX C

ORDER

The Decision and Order of the Judge denying Claimant's Petition to Review Medical Treatment and/or Billing, Petition to Modify Compensation Benefits, Petition to Review Compensation Benefits, Petition to Reinstate Compensation Benefits and Petition to Set Aside Final Receipt is hereby affirmed.

BY THE BOARD

MCINTYRE, COMMISSIONER

CONCURRED IN BY:

OCT 10, 2001

APPENDIX D

ORDER

AND NOW, this 30th day of November, 2000, the petitions to review medical treatment, for modification, to review compensation benefits, for reinstatement, and to set aside final receipt are denied and dismissed.

Charles P. Lawton, Workers' Compensation Judge
Washington, Pennsylvania

APPENDIX E

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY
WORKMEN'S COMPENSATION APPEAL BOARD

James Cassidy	:	
Claimant,	:	SOCIAL SECURITY NO
	:	
vs	:	**176-36-5446**
	:	[This Social Security number
	:	is not the claimants James
	:	Cassidy]
Wyatt, Inc.,	:	
Defendant.	:	

ORDER

AND NOW, to wit, this 23rd of July, 1997, upon consideration of the Commutation Petition and Stipulation of the parties, it is hereby ordered that the requested commutation is aproved and granted, Defendant and/or its carrier, Liberty Mutual Insurance Company, are ordered to pay the commuted sum of **$55,000.00,** less attorneys' fees as hereinafter set forth, to the claimant directly. The defendants are authorized to purchase an annuity which will pay the calimant **$52,200.00.** Defendant and its carrier are further ordered to pay **$10,720.00** directly to claimant's counsel, Attorney David Eckle, to be deducted from claimant's compensation benefits.

JUL 23 1997